

Message Text

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ACTION AF-06

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EB-07 FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02

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FM AMEMBASSY LAGOS

TO SECSTATE WASHDC 2098

INFO AMEMBASSY LONDON

C O N F I D E N T I A L LAGOS 11479

E.O. 11652: XGDS-1

TAGS: EWWT, BEXP, BDIS, NI

SUBJECT: CEMENT

REF: LAGOS 10917

SUMMARY: DISPUTE BETWEEN CEMENT SUPPLIERS AND FMG OVER SUSPENSION DEMURRAGE PAYMENTS AND REVOCATION LETTERS OF CREDIT HAS SHARPENED WITH NIGERIAN DECISION TO OPPOSE PENDING SUITS IN BRITISH COURT. AT SAME TIME, HOWEVER, RESPONSIBLE FMG AUTHORITIES STRESS THAT RESTRICTIVE GOVERNMENT ACTIONS LIMITED ONLY TO PART OF CEMENT SECTOR AND AFFECT NO OTHER GOODS OR SERVICES. ALSO REITERATE INTENTION TO EXAMINE CEMENT CLAIMS CAREFULLY AND AWARD JUST COMPENSATION. MECHANISM TO CARRY OUT DETAILED NEGOTIATIONS WITH INDIVIDUAL FIRMS HAS NOT BEEN ESTABLISHED AND FMG WILL SOON CONTACT COMPANIES TO BEGIN FURTHER TALKS. END SUMMARY.

1. TRANSPORT COMMISSIONER YAR'ADUA RETURNED FROM UK NOV 10 AFTER MEETING WITH UK OFFICIALS ON PROBLEM. VISIT WAS COMBINED WITH COMMISSIONER'S PUBLICLY ANNOUNCED PARTICIPATION IN ANNUAL CONFERENCE OF INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION. IN AIRPORT PRESS CONFERENCE UPON RETURN TO LAGOS, YAR'ADUA STATED "EITHER NIGERIA'S CASE WAS MISUNDERSTOOD OR
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SOME PEOPLE WERE DELIBERATELY MISREPRESENTING HER CASE TO

OUTSIDE WORLD." HE EMPHASIZED THAT "AFTER ALL CLAIMS HAD BEEN SIFTED, ALL GENUINE CLAIMS WOULD BE MET."

2. BRITISH HIGH COMMISSION (BHC) IN LAGOS HAS INFORMED US THAT YAR'ADUA'S PERSONAL ROLE IN TALKS WAS SECONDARY TO THAT OF C.O. IBIE, PERMANENT SECRETARY FOR SPECIAL DUTIES IN TRANSPORT MINISTRY. LATTER SERVED AS PRINCIPAL NEGOTIATOR AND IS REGARDED BY BRITISH AS KEY MAN IN OPERATION. HE MET WITH MINISTER OF STATE IN UK FOREIGN OFFICE AND WITH REPS OF DEPT OF TRADE, BANK OF ENGLAND, ECGD. ACCORDING TO BHC, IBIE GAVE LONG, FULENT EXPLANATION OF FMG POSITION IN LONDON ALONG LINES OF YAR'ADUA OCT 30 PRESS RELEASE, LARDED WITH REFERENCES TO TRADITIONAL WARM RELATIONS BETWEEN BRITAIN AND NIGERIA. HE AND COLLEAGUES ASKED FOR HMG'S HELP RE COURT ACTIONS AND STATED THEIR RELIANCE ON GOVERNMENT'S "SYMPATHY AND UNDERSTANDING."

3. HIGH COMMISSION ALSO REPORTS THAT BRITISH FIRMS HAVE INITIATED TWO ACTIONS IN COMMERCIAL COURT, PROCEDURES TERMED "OFFENSIVE AND UNDIGNIFIED" BY FMG SPOKSMEN IN LONDON. ONE INJUNCTION HAS BEEN ISSUED ORDERING NIGERIAN CENTRAL BANK TO RETAIN WITHIN UK 34 MILLION DOLLARS IN ASSETS, A SUM REPORTED TO EQUAL VALUE OF DISPUTED CARGO AND COSTS (UNLIKE BLOCKING OF TOTAL ASSETS IN GERMANY). BHC FURTHER REPORTS THAT NIGERIA WILL FIGHT IN COURT USING TWO BASIC ARGUMENTS: (1) MONEY DEPOSITED IN BANK OF ENGLAND DOES NOT BELONG TO NIGERIAN CENTRAL BANK BUT IS PROPERTY OF FMG AND IS THUS OUTSIDE JURISDICTION OF BRITISH COURTS; (2) CENTRAL BANK IS INTEGRAL PART OF FMG AND SHOULD ENJOY SOVEREIGN IMMUNITY. NIGERIAN HIGH COMMISSION IN LONDON HAS SUBMITTED FORMAL NOTE TO UK FOREIGN OFFICE ASKING IT TO CERTIFY THAT FMG ENTITLED TO SOVEREIGN IMMUNITY AGAINST COURT ACTIONS. FOREIGN OFFICE SAYS THIS CANNOT BE DONE AND BELIEVES OUTCOME OF CASE DEPTENDS ON COURT'S WILLINGNESS TO ACCEPT PROFESSED INTEGRAL RELATIONSHIP BETWEEN CENTRAL BANK AND FMG. IN CONTRAST, BANK OF ENGLAND IS HIGHLY INDEPENDENT IN HMG GOVERNMENTAL STRUCTURE.

4. HMG REPORTS ISSUE HAS SO FAR CAUSED FEW TREMORS IN BRITISH BUSINESS COMMUNITY, BUT PUBLICITY OF UPCOMING COURT CASES MIGHT STIR CONFUSION AND RESENTMENT. GENERAL CALM LARGELY ATTRIBUTED TO NIGERIAN HIGH COMMISSION'S BUYING ONE-HALF PAGE CONFIDENTIAL

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OF FINANCIAL TIMES TO CARRY FULL TEXT OF YAR'ADUA OCT 30 PRESS RELEASE. BRITISH OFFICIALS VIEW TEXT AS SUFFICIENTLY WELL REASONED AND WORDED TO ALLAY GENERAL BUSINESS ANXIETY, REGRET THAT SIMILAR PUBLICATION WAS NOT MADE IN AMERICAN PERIODICALS.

5. ON NOV 17 EMBASSY COUNSELOR CAHILL CALLED ON IBIE SHORTLY AFTER LATTER'S RETURN FROM LONDON TO DISCUSS DIRECT AND

INDIRECT CONSEQUENCES OF FMG MEASURES. IBIE STATED THAT NIGERIA AWARE THAT LETTERS OF CREDIT ESSENTIALLY IRREVOCABLE, BUT THAT UNILATERAL ACTION TAKEN TO SOLVE NATIONAL EMERGENCY, ONE THAT COULD MEAN "SURVIVAL" FOR NATION. GOVT'S RESPONSIBILITY TO ENSURE ECONOMIC AND SOCIAL WELL-BEING OF NIGERIA IN THIS CASE OUTWEIGHED ITS COMMITMENT TO UPHOLD RUINOUS AGREEMENT OF FORMER GOVERNMENT. IBIE FURTHER POINTED OUT THAT ACTIONS WITH REGARD TO DUMURRAGE PAYMENT AND LETTERS OF CREDIT TAKEN ONLY AGAINST THOSE WHO OPENLY DEFIED FMG EDICT REQUESTING NO SHIPMENTS TO BE MADE AFTER SEPTEMBER 8, 1975, WITHOUT PRIOR PERMISSION. ACTION INVOLVED APPROXIMATELY 100 SHIPS, CERTAIN COMPANIES CONTROLLING SEVERAL SHIPS. INFLOW OF CEMENT "HAD TO BE CUT OFF AS IT WAS CHOKING ECONOMY." FOR EXAMPLE, 6 FACTORIES PERSONALLY KNOWN TO IBIE HAD TO CLOSE IN PAST 5 WEEKS DUE INABILITY TO BRING IN RAW MATERIALS THROUGH PORT BOTTLENECK. MOREOVER, MOST CEMENT, "FOR WHICH NIGERIA PAID 50 PERCENT ABOVE WORLD PRICE," ALREADY CAKING AND USELESS. INSTEAD OF BEING "FLEXIBLE AND UNDERSTANDING," SOME SUPPLIERS "INSISTED ON FLOUTING NIGERIA" WITH LEGALISM. ON THE MORNING OF NOV 17 IBIE WAS STILL RECEIVING CABLES FROM CEMENT CONTRACTORS OF "ONE EUROEPAN COUNTRY" BOLDLY INFORMING HIM THAT SHIPLOADS WERE STILL BEING LOADED AND SENT, AND DARING THE FMG TO TRY AND STOP THEM. FACED WITH THIS ATTITUDE, IBIE FELT NIGERIA COULD NOT ALLOW ITSELF TO BE LENIENT.

6. IBIE REITERATED YAR'ADUA'S WORDS THAT ALL "HONEST" SHIPPERS AND SUPPLIERS WOULD RECEIVE JUST COMPENSATION; BUT IT WAS FIRST NECESSARY TO SEPARATE WHEAT FROM CHAFF AND REVEAL CONTRACTORS GUILTY OF ONE OR MORE OF A NUMBER OF ABUSES. "MEANINGFUL COMPENSATION" WOULD BE GIVEN THOSE UNFAIRLY HURT. THE PANEL OF INQUIRY HAD DONE ITS JOB IN QUICKLY CALLING SUPPLIERS IN, BUT NOW THE MACHINERY HAD BEEN SET UP TO CARRY OUT DETAILED NEGOTIATIONS WITH EACH COMPANY TO RESOLVE DEMURRAGE AND LETTERS OF CREDIT MATTERS. THE MINISTRY WOULD SHORTLY BEGIN WRITING

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TO INDIVIDUAL FIRMS TO ARRANGE MEETING DATES.

7. A MOVING AND ARTICULATE SPEAKER, IBIE OPINED THAT BUSINESSMEN COULD WELL BE THE ARCHITECTS OF THEIR OWN MISFORTUNES. THE CEMENT EPISODE WITH FOREIGN BUSINESSMEN DETERMINED TO CRAM 1.6 MILLION TONS OF CEMENT PER MONTH INTO A COUNTRY WHOSE PARTS COULD HANDLE A MAXIMUM OF 800,000 TONS TOTAL CARGO PER MONTH, HAD NEARLY WRECKED NIGERIA'S ECONOMY. "IF THEY HAD BEEN WILLING TO SPACE DELIVERIES OVER A LONGER PERIOD, THE CURRENT CONFRONTATION WOULD NOT EXIST." OFF-THE-RECORD, HE WENT ON TO STRESS THAT ECONOMIC COLLAPSE TOO OFTEN BROUGHT A "MADMAN" INTO THE SEAT OF POLITICAL POWER, A "ROBOT" WHO DELAT HAVOC IN ALL DIRECTIONS WITH THE EXCUSE OF BRINGING ORDER OUT OF CHAOS. MYOPIC BEHAVIOR COULD BRING DIRE RESULTS FOR ALL.

IBIE CONCLUDED HIS REMARKS WITH ADMISSION THAT NIGERIA
"FOR A LONG, LONG TIME" WILL DEPEND PRIMARILY ON FOREIGN NATIONS
FOR GOODS AND SERVICES, THAT "WE ARE LITERALLY BEGGING FOR
TECHNOLOGY AND NEED THE WEST VERY BADLY." NATIONAL ECONOMIC
HEALTH, HOWEVER, HAD TO BE MAINTAINED.

8. IBIE CAME INTO HIS PRESENT POSITION AS CHIEF MAN FOR
RESOLVING CEMENT IMBROGLIO 3 MONTHS AGO FROM FEDERAL CABINET
OFFICE. DURING CIVIL WAR HE SERVED IN MINISTRY OF FINANCE, AND IS
"NOT INEXPERIENCED IN UNDERTAKING UNPLEASANT TASKS." BORN IN
THE MID-WESTERN STATE, HE WAS EDUCATED IN ECONOMIC AND POLITICAL
SCIENCES IN ENGLAND BUT DOES "NOT FEEL AT HOME THERE,
ESPECIALLY DURING RECENT WEEKS."

9. OUR IMPRESSION IS THAT IBIE IS LEVEL-HEADED AND PERCEPTIVE,
A CAPABLE OFFICIAL FOR THE TASK ASSIGNED TO HIM.
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Message Attributes

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Disposition Date: 28 MAY 2004
Disposition Event:
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